

Town of Milton

115 Federal St

Milton, DE 19968



www.milton.delaware.gov

Phone: 302-684-4110

Fax: 302-684-8999

October 25, 2013

To: Mayor and Council

From: Kristy Rogers

RE: American Legion tax status

On October 3, 2013, it was requested of me to research the tax status of parcel 14.15-134.00, 105 Bay Ave., owned by Post Realty and occupied by the American Legion.

Currently, we assess property tax. I've received copies of documents declaring the American Legion to be an exempt organization. Also, during the past few weeks, I've been in contact with Dave Hickey, Town tax assessor, Sussex County Treasury Division and Sussex County Assessment Department. Beginning with this year, Sussex County has recognized this parcel as tax exempt.

Attached are several documents for reference, in deciding the Town tax status of 105 Bay Avenue.

Kristy Rogers

From: Dave Hickey <daveh@e-masi.com>
Sent: Friday, October 25, 2013 3:16 PM
To: Kristy Rogers
Subject: American Legion

Kristy,

Per our conversation regarding the tax exempt status of the American Legion property, (Post Realty TM# 14.15-134.00 105 Bay Ave)

Normally, properties owned by churches, schools, local and state governments are 'Tax Exempt'. Fraternal organizations such as the American Legion, Elks Lodges, Moose Lodges are 'Tax Exempt' in many jurisdictions. Typically, owners of these type properties have to make application to Local or State Authorities to be given the Tax Exempt Status. I do not have the authority to make such a distinction on my own. I rely on the jurisdiction to provide me the Taxable or Tax Exempt Status for each parcel.

I believe that you should check with the town attorney to check the exact process per Delaware Tax Code and/or Town of Milton Code.

I hope this will provide you the information you need to resolve this matter.

Let me know if you need me to do anything else.

Dave

THE AMERICAN LEGION
NATIONAL HEADQUARTERS

OFFICE OF THE
NATIONAL JUDGE ADVOCATE
P.O. BOX 1055
INDIANAPOLIS, IN 46206

May 2, 2013

Robert Moore, Adjutant
American Legion Milton Post No. 20
105 Bay Avenue
Milton, Delaware 19968

Dear Adjutant Moore:

In reply to your recent request, The National Organization of The American Legion was granted its exempt status by the Internal Revenue Service in 1934. In February of 1946, we submitted to the central office of the Internal Revenue Service a complete listing of all Departments and Posts extant in the Legion up to and including December 31, 1945. With our submission we requested a group ruling which would extend exemption from the payment of federal income tax for those Departments and Posts designated in our listing.

Each year since 1946 supplemental listings have been transmitted to the Internal Revenue Service for an over-all group ruling covering those Departments and Posts chartered during the previous year. Group rulings have been issued yearly by the Internal Revenue Service covering those Departments and Posts. *Since Milton Post No. 20 was chartered on December 31, 1945, it was included in our original listing. Post No. 20 does not appear on the IRS list of revoked organizations.* Enclosed is a copy of the original ruling.

Section 101(8) referred to in the exemption letter corresponds to Section 501 (c) (4) of the 1954 Code. The American Legion, its component Departments and Posts, were exempt from the payment of federal income tax under this Section up to and including the year 1972. By virtue of the passage of Public Law 92-418 on August 29, 1972, veterans' organizations were given a separate classification under the Code, Section 501(c)(19). A copy of that ruling is also enclosed.

Also enclosed please find a copy of a letter we received from the Internal Revenue Service dated February 17, 1976, wherein the National Organization, Departments and Posts were instructed to use the number 0925 as their Group Exemption Number (GEN) when filing their Form 990.

In addition, the status of The American Legion and its Departments and Posts may allow acceptance of charitable gifts and bequests. The following might be of assistance to you.

Deductability of Contributions to The American Legion is governed by 26 U.S.C. 170 (c) (3) Internal Revenue Code of 1954, as amended.

Deductibility for bequests is established by 26 U.S.C. Section 2055 (a) (4).

May 2, 2013

Page #2

Section 170(c)(3) reads as follows:

"Section 170. Charitable, etc., contributions and gifts

(a) Allowance of deduction

(1) General Rule. - There shall be allowed as a deduction any charitable contribution (as defined in sub-section (c) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

* * *

(c) Charitable contribution defined. For purposes of this section the term 'charitable contribution' means a contribution or gift to or for the use of -

(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization -

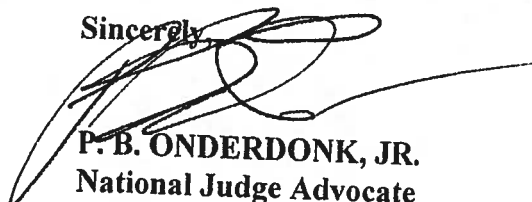
(A) organized in the United States or any of its possessions, and

(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual."

According to the records at The American Legion National Headquarters, your Post EIN is 51-6017671.

I trust the foregoing information is what you needed. If there are any questions, please do not hesitate to call me.

Sincerely,



P. B. ONDERDONK, JR.
National Judge Advocate

cc: Dept. Commander-Delaware
Dept. Adjutant
Dept. NECman
Dept. Judge Advocate



TREASURY DEPARTMENT

WASHINGTON 25

OFFICE OF
COMMISSIONER OF INTERNAL REVENUE

ADDRESS REPLY TO
COMMISSIONER OF INTERNAL REVENUE
AND REFER TO

IT:P:T:1

MAP

The American Legion
c/o Donald G. Glascoff,
National Adjutant
National headquarters
Indianapolis 6, Indiana



Gentlemen:

Reference is made to the information submitted for use in determining the status of the departments and posts under your jurisdiction for Federal income tax purposes.

In Bureau ruling dated February 26, 1934 it was held that you are entitled to exemption from Federal income tax under the provisions of section 103(8) of the Revenue Act of 1932 and corresponding provisions of prior revenue acts. Such ruling was affirmed July 8, 1938 under the Revenue Act of 1936 and is applicable under the provisions of section 101(8) of the Revenue Act of 1938 and the Internal Revenue Code.

Based upon the evidence presented, it is held that your departments and posts appearing on the lists submitted with an affidavit dated February 27, 1946 of your National Adjutant are entitled to exemption from Federal income tax under the provisions of section 101(8) of the Internal Revenue Code and corresponding provisions of prior revenue acts.

Accordingly, your departments and posts appearing on the lists submitted will not be required to file income tax returns unless there is a change in their character, purposes or method of operation. Any such changes should be reported immediately to this Bureau in order that their effect upon the exempt status of the departments and posts under your jurisdiction may be determined.

You should furnish the Bureau annually, on the calendar year basis, lists in quadruplicate showing only the names, numbers and addresses of any new departments and posts which were chartered by you during the calendar year and the names, numbers and addresses of any departments and posts which for any reason have ceased to exist. Such annual lists should be accompanied by a statement sworn to by one of your principal officers as to whether the information heretofore submitted by you and on which this ruling is based

Internal Revenue Service
Washington, D.C. 20224

Department of the Treasury

Date:

Person to Contact:

Mr. Charles E. McLaughlin

Telephone Number:

(202) 964-6197

Refer Reply to:

E:EO:O:R

Date:

February 17, 1976

Group Exemption Number:

35-0144250 0925 05 00 19
AMERICAN LEGION NATIONAL HEADQUARTERS
700 NORTH PENNSYLVANIA STREET
INDIANAPOLIS IN 46206

0925

Dear Officer or Trustee:

We are contacting all group central organizations because the 1975 Form 990 and instructions require each central organization and its subordinates to show their group exemption number (GEN) in Part I, item 18(b), of Form 990.

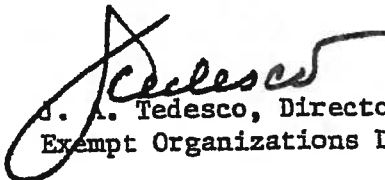
Your group exemption number is shown above. Please advise any of your subordinates that are required to file an annual information return, Form 990, to place your group exemption number on their return.

Church central organizations are not required to file an annual information return. However, any of their subordinates that do not qualify as "integrated auxiliaries" of a church are required to file an information return, Form 990, and should include on that return the appropriate group exemption number. We are preparing a proposed amendment to the Income Tax Regulations which will define an integrated auxiliary of a church. When that amendment is published, we will send an information copy to holders of group exemption rulings under section 501(c)(3) of the Internal Revenue Code. (Organizations exempt under other provisions will not receive a copy.)

If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your help in this matter.

Sincerely yours,


J. A. Tedesco, Director
Exempt Organizations Division

M-0088 (2-76)

Department of the Treasury

Internal Revenue Service

Washington, D.C. 20544

Date: MAR 26 1973

In reply refer to:

MAR 26 1973

T:MS:EO:R:1

The American Legion
National Headquarters
Indianapolis, Indiana 46206

EIN 35-0144250
DO 52

Gentlemen:

This refers to your letter dated January 2, 1973, in which you ask that your ruling letter of March 14, 1946, be modified to show that you are recognized to be exempt from Federal income tax under section 501(c)(19) of the Internal Revenue Code. You state, and the information furnished shows, that membership in your organization is limited to persons who served in the Armed Services of the United States during a period of war.

Our records show that on March 14, 1946, you and your subordinate departments and posts were recognized to be exempt from Federal income tax under section 101(8) of the 1939 Code (this now corresponds to section 501(c)(4) of the 1954 Code).

Based on the information furnished, we rule that you and your subordinate departments and posts are recognized as being exempt under section 501(c)(19) of the Code.


You are required to file the annual return, Form 990, on or before the 15th day of the 5th month after the end of your annual accounting period if your annual gross receipts are normally more than \$5,000. Failure to file the Form 990 by this date may subject you to a penalty of \$10 for each day during which such failure continues, up to a maximum of \$5,000. Your subordinates will have to file an annual information return, Form 990, if their gross receipts in each taxable year are normally more than \$5,000.

The American Legion

1. A statement describing any changes during the year in the purposes, character, or method of operation of your subordinates.
2. A list of the names, mailing addresses including ZIP Codes, and employer identification numbers (if required for group exemption letter purposes) of subordinates on your group exemption roster that during the year:
 - a. changed names or addresses;
 - b. were deleted from the roster;
 - c. were added to the roster. ✓

An annotated directory of subordinates will not be accepted for this purpose.

3. For subordinates added to the roster, a letter signed by one of your principal officers containing or attaching:
 - a. a statement that the information which your present group exemption letter is based applies to the new subordinates;
 - b. a statement that each has given you written authorization to add its name to the roster;
 - c. a list of those to which the Service previously issued rulings or determination letters relating to exemption.

 Hi, John

INBOX CONTACTS CALENDAR nation center for char...
Message

Compose Delete Move Spam Actions

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Drafts

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Spam

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FOLDERS

MESSANGER

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[No Subject]

from robertmoore@net May 19

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 National Center for Charitable Statistics

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American Legion Post Realty Inc

Milton, DE 19968

☐ = IRS provided data

☐ = User submitted data

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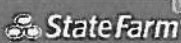
Organization Overview

<p>EIN:</p> <p>Name:</p> <p>Location: <input type="checkbox"/></p> <p>County:</p> <p>Ruling Date:</p> <p>IRS Type:</p> <p>Legal basis for public charity or private foundation status (FNDNCD):</p> <p>NTEE: <input type="checkbox"/></p> <p>Most recently completed fiscal year (TAXPER)</p> <p>Total Revenue</p> <p>Total Assets:</p> <p>No mission statement(s) found</p>	<p>Organization Details</p> <p>510275968</p> <p>American Legion Post Realty Inc – Google</p> <p>105 Bay Ave</p> <p>Milton, DE 19968 <input type="checkbox"/> Report</p> <p>Sussex County</p> <p>1946 (Approximate year when founded)</p> <p>501(c)(19) - Post or organization of war veter</p> <p>00 - All organizations except 501(c)(3)</p> <p>W30 - Military & Veterans Organizations</p> <p>12/2011</p> <p>\$0</p> <p>\$0</p> <p>Organization Mission Statement and Purpose</p>
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If you are part of this organization or are an authorized NCCS Community Research Partner, you can edit its information. NCCS account required.

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APPLICATIONS

President Increases Amount Seniors Can Get From Reverse Mortgages

ENTER YOUR AGE

33

Calculate New Payment

nation center for charitable statistics, (web site)

from robertmoore@nc

May 19

in Sussex County, DE - National Center for Charitable Statistics

516022568, Milton Fire Department Inc, 04, 1,013,438, 3,870,439, 2011 ... 516018018, American Legion Post 8 Sussex Inc Georgetown Ambulance Service , 19, 679,153, 661,363, 2012 510109938, Georgetown Day Care Center Inc, 03, 20, 0, 2011 510275968, American Legion Post Realty Inc. 19, 0, 0, 2011 ... <http://nccsdataweb.urban.org/PubApps/geoShowOrgs.php?code=C10005&v=n>

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